

REMARKS

I. PRELIMINARY REMARKS

No claims have been amended, added or canceled. Claims 1-40 remain in the application. Reexamination and reconsideration of the application are respectfully requested.

II. RESTRICTION REQUIREMENT

In response to the Restriction Requirement under 35 U.S.C. § 121, applicant provisionally elects Invention I (claims 1-8, 14-28 and 32-40) without traverse for prosecution on the merits.

III. ELECTION OF SPECIES REQUIREMENT

A. Provisional Election

In response to the Election of Species Requirement under 35 U.S.C. § 121, applicant provisionally elects Species I (claims 1-8 and 14-18) with traverse.

B. Reasons For Traversal

At the outset, applicant notes that the traversal is not based on the issues of independence or distinctness, and is not an admission that the species are unpatentable over one another. Rather, the traversal is based on the procedural defects associated with the election of species requirement.

For example, the Office Action failed to properly identify the species from which applicant was to elect. Instead, and despite the fact that claims are never species,¹ the Office Action simply listed elements from independent claims 1, 19, 21, 32 and 38 and called the respective groups of elements Species I-V. Applicant respectfully submits that such an identification of species fails to comply with the requirements of MPEP § 809.02(a).

The Office Action also failed to provide the reasons why the inventions are independent or distinct, as required by MPEP § 808. The Office Action merely compared independent claims 1, 19, 21, 32 and 38 to one another and apparently concluded that the subject matter of each one of these claims is “independent or distinct” from the subject matter of the remaining four claims.

The Office Action also failed to provide the reasons for insisting upon restriction, such as separate classification, separate status in the art, or different field of search, as required by MPEP § 808.02.

In view of the forgoing, applicant respectfully submits that the Election of Species Requirement is improper and should be withdrawn, and that claims 1-8, 14-28 and 32-40 should be examined on the merits.

IV. CLOSING REMARKS

Early and favorable consideration of the elected inventions are respectfully requested. Allowance of the claims at an early date is courteously solicited. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call Applicants' undersigned representative at (310) 563-1458 to discuss the steps necessary for placing the application in condition for allowance.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 08-2025. Should such fees be

¹ See MPEP § 806.04(e).

associated with an extension of time, applicant respectfully requests that this paper be considered a petition therefor.

Respectfully submitted,

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Date

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